

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CableSouth, Inc.)	File No. EB-02-TS-654
)	
Operator of Cable Systems in the States of)	
)	
Alabama, Florida, Georgia, Louisiana,)	
Mississippi and Texas)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: February 25, 2003**Released: March 3, 2003**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant CableSouth, Inc. ("CableSouth") temporary waivers of Section 11.11(a) of the Commission's Rules ("Rules") for 41 cable television systems in the six above-captioned states. Specifically, we grant a temporary, 12-month waiver of Section 11.11(a) one cable television system in West Atlanta, Georgia and temporary, 36-month waivers of Section 11.11(a) for 40 cable television systems in the States of Alabama, Florida, Louisiana, Mississippi and Texas. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*,

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On September 20, 2002, CableSouth filed a request for waivers of Section 11.11(a) for 41 small, rural cable systems in the six captioned states. In support of its waiver request, CableSouth states that one cable system in West Atlanta, Georgia serves approximately 1,219 subscribers and 40 cable systems in the States of Alabama, Florida, Louisiana, Mississippi and Texas serve between 14 and 537 subscribers. Based on price quotes from EAS equipment manufacturers, CableSouth estimates that it would cost approximately \$6,500 to install EAS equipment at each of these systems for a total cost of \$266,500. CableSouth asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, CableSouth submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, CableSouth notes that its subscribers currently have access to national EAS messages on six or more programmed channels. CableSouth also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

4. Based upon our review of the financial data and other information submitted by CableSouth, we conclude that a temporary, 12-month waiver of Section 11.11(a) for one cable system in West Atlanta, Georgia is warranted, and temporary, 36-month waivers of Section 11.11(a) for 40 cable systems in Alabama, Florida, Louisiana, Mississippi and Texas are warranted.⁹ In particular, we find that

Second Report and Order, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

⁹ The 12-month waivers will extend from October 1, 2002 to October 1, 2003. The 36-month waivers will extend from October 1, 2002, until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

the estimated \$266,500 cost of EAS equipment for these small cable systems could impose a financial hardship on CableSouth.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² CableSouth, Inc. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2003 for one cable television system listed in Attachment A and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for 40 cable television systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that CableSouth, Inc. place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for CableSouth, Inc., Rebecca H. Duke, Esq., Holland & Knight LLP, 2099 Pennsylvania Avenue, N.W., Suite 100, Washington, D.C. 20006-6801.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

CableSouth, Inc.

Cable Systems:**Temporary Waiver Granted Until:****Alabama**

Akron, Alabama	October 1, 2005
Alabama Port, Alabama	October 1, 2005
Atmore, Alabama	October 1, 2005
Chatom, Alabama	October 1, 2005
Gilbertown, Alabama	October 1, 2005
Grand Bay, Alabama	October 1, 2005
Leesburg, Alabama	October 1, 2005
Maplesville, Alabama	October 1, 2005
McCall, Alabama	October 1, 2005
Millry, Alabama	October 1, 2005
North Brewton, Alabama	October 1, 2005
St. Elmo, Alabama	October 1, 2005
Turnerville, Alabama	October 1, 2005
Wilmer, Alabama	October 1, 2005

Florida

Bratt, Florida	October 1, 2005
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Georgia

West Atlanta, Georgia	October 1, 2003
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Louisiana

Cecilia, Louisiana	October 1, 2005
Coteau Homes, Louisiana	October 1, 2005
Egan, Louisiana	October 1, 2005
Ethel, Louisiana	October 1, 2005
Four Corners, Louisiana	October 1, 2005
Forked Island, Louisiana	October 1, 2005
Grand Lake, Louisiana	October 1, 2005
Henry, Louisiana	October 1, 2005
Mire, Louisiana	October 1, 2005
Norwood/Wilson, Louisiana	October 1, 2005
Pecaniere, Louisiana	October 1, 2005

Mississippi

Centreville, Mississippi	October 1, 2005
Franklin Creek, Mississippi	October 1, 2005
Hancock, Mississippi	October 1, 2005
Kiln, Mississippi	October 1, 2005
Gloster, Mississippi	October 1, 2005

Cable Systems:**Temporary Waiver Granted Until:**

Liberty, Mississippi
Lucedale I, Mississippi
Lucedale II, Mississippi
Woodville, Mississippi

October 1, 2005
October 1, 2005
October 1, 2005
October 1, 2005

Texas

Campbell, Texas
Cedar Creek, Texas
Country Club Shore, Texas
Harbor Point, Texas
Seven Points, Texas

October 1, 2005
October 1, 2005
October 1, 2005
October 1, 2005
October 1, 2005